IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

THE HON'BLE MR JUSTICE GOPALA KRISHNA TAMADA

WRIT PETITION NO :34178 of 1997

Dated: 01.03.2007

Between:
Bakka Narasimha Reddy, S/o Krishna Reddy, 40 years,
R/o Rachaveetivaripally, Nimmanapally Mandal,
Chittoor District.

..... PETITIONER

AND

1. The Special Commissioner for Land Revenue,
   Nampally, Hyderabad.
2. The Joint Collector, Chittoor District.
3. The Mandal Revenue Officer, Nimmanapalli Mandal,
   Chittoor District. .. RESPONDENTS

THE HON'BLE MR JUSTICE GOPALA KRISHNA TAMADA

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ORDER:

This writ petition is filed seeking quashing of the order of the 1st respondent in proceedings No.BCW4/686/93 dated 07.02.1997 confirming the order of the 2nd respondent in D.D.No.B3/20206/92 dated 12.04.1993 cancelling the assignment of the land made in the year 1991 in respect of Sy.No.705/2 to an extent of Ac.1.68 and Ac.2.986 in Sy.No.705/3 of Rachaveetivaripally village, Nimmanapally Mandal, Chittoor District.

The case of the petitioner is that he was assigned an extent of Ac.1.68 of land in Sy.No.705/2 and Ac.2.96 in Sy.No.705/3 of Rachaveetivari palli village, Nimmanapalli Mandal, Chittoor District in D.K.T.No.9-4-1404 dated 14.08.1991 by the Mandal Revenue Officer, Nimmanapalli and since then he is in exclusive possession and enjoyment of the said

lands. However, the 3rd respondent-Mandal Revenue Officer without giving any notice or opportunity to the petitioner submitted a report to the 2nd respondent-Joint Collector stating that the land in question is in occupation of one Rajamma and therefore recommended for cancellation of the said assignment made in favour of the petitioner. Thereafter, the 2nd respondent-Joint Collector issued a show cause notice calling for an explanation from the petitioner to show cause as to why the said assignment should not be cancelled and further directed the petitioner to be present on 15.01.1993 in the office of the Revenue Divisional Officer, Madanapally and accordingly the petitioner went to the office of the Revenue Divisional Officer on 15.01.1993 along with his counsel. However, the 2nd respondent did not come to the office of the Revenue Divisional Officer on the said date and the petitioner was informed that next date of hearing will be intimated. It is stated that the 2nd respondent-Joint Collector, without any notice to the petitioner, passed an order dated 12.04.1993 cancelling the patta granted in his favour and directed the 3rd respondent-Mandal Revenue Officer to resume the land and assign to the poorest of the poor persons in the village. Aggrieved by the same, the petitioner filed an appeal before the 1st respondent-Special Commissioner for Land Revenue and that the 1st respondent passed an order dated 07.02.1997 confirming the order of the 2nd respondent. Hence this writ petition.

Heard both sides.

Though a detailed counter-affidavit has been filed on behalf of the respondents it is not in dispute that the petitioner was not heard before passing of the cancellation order. The only contention put forth by the learned Government Pleader for Revenue is that though the petitioner was directed to offer his explanation, he has not chosen to do so and hence the 2nd respondent-Joint Collector passed the cancellation order on 12.04.1993. This Court is of the view that the said contention put forth by the 2nd respondent-Joint Collector in the counter-affidavit appears to be incorrect. In fact, in the show cause notice dated 28.12.1992 issued by the 2nd respondent-Joint Collector, it is clearly mentioned that the petitioner may offer his explanation or appear before the office of the Revenue Divisional Officer on 15.01.1993 to represent his case. Accordingly the petitioner attended the office of the Revenue Divisional Officer on 15.01.1993. When that is so, it cannot be said that the petitioner failed to offer his explanation to the show cause notice issued by the 2nd respondent-Joint Collector. Having regard to the fact that the order of the 2nd respondent-Joint Collector dated 12.04.1993 cancelling the assignment of land made in favour of the petitioner was without affording sufficient opportunity to the petitioner, this Court is of the view that the said order of the 2nd respondent-Joint Collector as confirmed by the 1st respondent-Special Commissioner for Land Revenue on 07.02.1997 is violative of principles of natural justice and accordingly the said orders of respondents 1 and 2 are hereby quashed. However, the 2nd respondent-Joint Collector is hereby directed to hold a fresh enquiry after giving sufficient opportunity to the petitioner and pass appropriate orders in accordance with law.

The writ petition is accordingly allowed. No costs.

(GOPALA KRISHNA TAMADA, J)

01-03-2007
Gsn.